

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*  
s.166A giving of notice of intention to take action in tort

**Herald and Weekly Times Limited**  
(C2005/4612)

Printing industry

COMMISSIONER EAMES

MELBOURNE, 31 OCTOBER 2005

**DECISION**

[1] On 28 October 2005 at 12:53 pm, the Herald and Weekly Times Pty Ltd (HWT) gave written notice to the Registrar pursuant to s.166A(3) of the *Workplace Relations Act 1996* (the Act).

[2] On 31 October 2005, the Commission as constituted in this matter, heard submissions from the parties associated with the application.

[3] Mr S. Wood of counsel was granted leave to represent the HWT and Mr M. Addison of Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (AMWU) appeared for the AMWU members affected by the application.

[4] Mr Addison indicated he had tried to contact the relevant union organiser but had been unsuccessful, and accordingly appeared in the proceedings without instructions. It was also noted, that no union delegates or members employed by HWT made an appearance.

[5] Mr Wood submitted that whilst conciliation was available to the members of the AMWU it was not likely the Commission could progress any talks before the expiration of the statutory 72 hours notice provided for in s.166A of the Act, and accordingly he relied upon s.166A(6)(c) of the Act, in seeking a certificate.

[6] An exhibit (Exhibit W2) was tendered in the proceedings which was a statement of Mr Neil Wood, the HWT Production Manager, which outlined the industrial history and current situation associated with the AMWU claims regarding a new Enterprise Agreement.

[7] Mr Addison in general terms, did not contest the details in the outline, but did indicate the proposed industrial action, was in his view, protected industrial action.

[8] Having heard the submissions of the parties, which are contained in the transcript of the proceedings, I have come to the view that the Commission is not likely to be able to promptly stop the proposed industrial action, and certainly not before 12.53 pm today, 31 October 2005, when the 72 hours notice period will elapse.

[9] Accordingly I hereby issue a certificate in the terms generally set out in Exhibit W1 as of today's date, 31 October 2005.

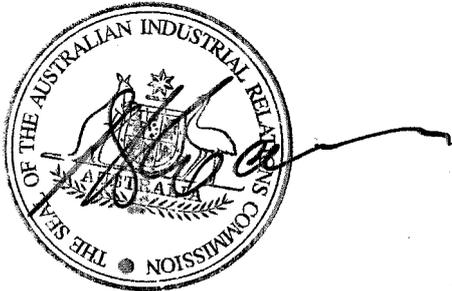
## CERTIFICATE

On 28 October 2005, HWT gave written notice to the Registrar pursuant to s.166A(3) of the *Workplace Relations Act 1996*. On 31 October 2005, the Commission started to exercise its conciliation powers in relation to the industrial dispute in this matter.

I have formed the opinion that the Commission is not likely to be able to promptly stop the conduct organised or engaged in by the AMWU being conduct (whether by themselves or their employees, officers, delegates, agents, attorneys or howsoever) of:

- (a) organising, encouraging or inciting employees of HWT to fail or refuse to perform work as required by their contracts of employment on and after 28 October 2005;  
or
- (b) preventing employees of HWT from performing work as required by their contracts of employment or from attending for work on and after 28 October 2005.

BY THE COMMISSION:



COMMISSIONER

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